

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ALICIA JOHNSON, ASIA  
JOHNSON, AVION JOHNSON, ALLONTE  
JOHNSON, and AMARION GANTT, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARIEO GANTT,

Respondent-Appellant.

UNPUBLISHED

May 10, 2005

No. 257670

Wayne Circuit Court

Family Division

LC No. 04-427838

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Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

MEMORANDUM.

Respondent appeals as of right from the order of the trial court terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(h), (j), and (k)(iii). We affirm.

This case was initiated by a petition filed by the Family Independence Agency alleging in part that respondent had sexually assaulted his stepdaughter, a sibling of his children. Respondent later pleaded guilty to fourth-degree criminal sexual conduct involving his stepdaughter. At the time of termination, respondent was no longer incarcerated but was serving two years' probation that precluded unsupervised contact with any person under age sixteen.

Respondent contends that the trial court erred in terminating his parental rights pursuant to MCL 712A.19b(3)(h) and (j), though he does not challenge the trial court's decision to terminate his parental rights under MCL 712A.19b(3)(k). We note that the trial court need only find clear and convincing evidence to terminate under one of the subsections of MCL 712A.19b(3). Further, contrary to respondent's contentions, termination in this case was appropriate under subsections (3)(h) and (3)(j). Though no longer incarcerated at the time of termination, respondent was nonetheless serving a probationary term that precluded him from caring for his children, thereby depriving the children of a normal home for a period exceeding two years. The trial court also had ample evidence before it from which it could have concluded that there was a reasonable likelihood that the children would be harmed if returned to respondent's care. For the same reasons, we also find that the trial court did not clearly err in determining that termination was not contrary to the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

We also reject respondent's argument that the trial court erred in accepting respondent's waiver on the question of probable cause before allowing the petition to issue. Not only did respondent fail to raise this issue before the trial court, but the record indicates that the trial court did advise respondent of what was transpiring, respondent agreed that he understood, and respondent was represented by counsel. There is no evidence that respondent at any time was confused or regretted this decision. Respondent's challenge is also inadequate because respondent presents no argument that the outcome would have been different had he insisted upon a hearing on the issue of probable cause. *In re NEGP*, 245 Mich App 126, 134; 626 NW2d 921 (2001); *In re Zelzack*, 180 Mich App 117, 126; 446 NW2d 588 (1989). Respondent had been charged with criminal sexual conduct involving his stepdaughter and later pleaded guilty to charges of fourth-degree criminal sexual conduct in connection with those allegations. Given that probable cause may be established in whatever manner and with whatever information deemed sufficient by the trial court, MCR 3.962 (B)(3), it is unlikely that the trial court would have reached a different decision had the parties proceeded with a hearing on the issue.

Affirmed.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Patrick M. Meter